

State of South Dakota

EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

636Q0717

HOUSE ENGROSSED NO. **HB 1276** - 2/23/2009

Introduced by: Representatives Rausch, Noem, Rave, Solum, and Street and Senators Merchant, Frysliie, and Peterson

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the application for
2 tax refunds for the construction of certain agricultural processing and new business
3 facilities.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 10-45B-6 be amended to read as follows:

6 10-45B-6. Any person desiring to claim a refund pursuant to this chapter shall apply for a
7 permit from the secretary prior to or within one hundred eighty days after the construction date.
8 However, any project with a construction date between January 1, 2006, and July 1, 2006, that
9 would otherwise qualify for a refund shall apply for a permit by August 1, 2006. In addition, any
10 person that has a project with a construction date between October 1, 2007, and November 1,
11 2007, that would otherwise qualify for a refund, but was not issued a permit before January 1,
12 2009, may apply for a permit by August 1, 2009, if the person agrees to the conditions
13 established in section 2 of this Act. The application for a permit shall be submitted on a form
14 prescribed by the secretary. A separate application shall be made and submitted for each project.
15 Upon approval of the application, the secretary shall issue a permit entitling the applicant to



1 submit refund claims as provided by §§ 10-45B-7 and 10-45B-8. Such permit or refund claims
2 are not assignable or transferable except as collateral or security pursuant to chapter 57A-9.

3 Section 2. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
4 follows:

5 The person agrees to only receive seventy-five percent of the total refund or credit for the
6 sales and use tax and contractors' excise tax that the person would otherwise qualify to receive
7 pursuant to this chapter.

8 Notwithstanding the provisions of § 10-45B-8, the secretary shall determine and pay five
9 percent of the amount of the tax refund within ninety days of receipt of the return to the claimant
10 in accordance with §§ 10-59-22 and 10-59-23, and ninety-five percent shall be withheld by the
11 department until July 1, 2011. No interest shall be paid on the refund amount.